

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 22-44843

ERIK WILLIAM MOORE,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING THE DEBTOR'S MOTION
TO EXTEND THE AUTOMATIC STAY**

This case is before the Court on the Debtor's motion filed on June 22, 2022, entitled "Debtor's Motion to Extend Stay Beyond 30 Days Pursuant to 11 USC §362(c)(3)(B)" (Docket # 10, the "Motion"). The Debtor filed a voluntary petition for relief under Chapter 13 on June 17, 2022, commencing this case. The Debtor filed two previous Chapter 13 cases, which were both pending within the one year preceding the filing of the current case: Case No. 17-41574, filed February 6, 2017 and dismissed on July 8, 2021; and Case No. 21-49297, filed November 30, 2021 and dismissed on May 9, 2022.¹ Under 11 U.S.C. § 362(c)(4)(A)(i):

if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case[.]

Because the Debtor had two bankruptcy cases which were pending and dismissed within the one year before the filing of this case, the automatic stay did not go into effect upon the filing of this case. There is no automatic stay to extend, and § 362(c)(3)(B) does not apply. If the Debtor

¹ The Motion erroneously states that the Debtor had only "one pending Chapter 13 case within the previous year that was dismissed, other than a case dismissed under 11 USC §707(b)." (Mot. at ¶ 1.)

wants the benefit of the stay under § 362(a), the Debtor must file a motion to impose the stay under § 362(c)(4)(B), not a motion to extend the stay under § 362(c)(3)(B). Accordingly,

IT IS ORDERED that the Motion (Docket # 10), is denied, without prejudice to the Debtor's right to file a timely motion to impose the stay under 11 U.S.C. § 362(c)(4)(B) (*i.e.*, no later than July 18, 2022).

Signed on June 30, 2022



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge